

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Loadmaster Universal Rigs, Inc.,
Loadmaster Drilling Technologies, LLC,
and Kennedy Fabricating, LLC

Plaintiffs,

V.

Petróleos Mexicanos, Pemex Exploración y Producción, Pemex Perforación y Servicios, and Pemex Procurement International, Inc.

Defendants.

Case No. 4:19-cv-02624

Pemex Procurement's Agreed Motion to Continue Stay

Defendant Pemex Procurement International, Inc. (“Pemex Procurement”) respectfully requests that this Court continue the stay of this action pending the resolution of an already-underway arbitration in Mexico City initiated by the plaintiffs against two of the four defendants regarding the same dispute and operative facts. Plaintiffs agree to the continuance of the stay sought by this motion.

Background

Plaintiffs' claims stem from their dealings with defendants in connection with two contracts, each for the acquisition of a custom-made Modular Drilling Unit. In the arbitration, Plaintiffs claim that the Pemex entities wrongfully terminated the contracts.

The contracts between the parties require that they arbitrate “any controversy, claim, difference or dispute arising out of, relating to or connected with this Contract or the breach thereof.” On March 8, 2018, Plaintiffs filed an arbitration demand against Pemex Exploración y

Produccion and Pemex Perforacion y Servicios in Mexico City. In response, these Pemex entities claimed they were not parties to the contracts or subject to the arbitration clauses therein.

On Nov. 30, 2018, Plaintiffs filed this suit in Harris County District Court asserting claims against defendants regarding the dispute and operative facts present in the arbitration. Allowing claims to proceed simultaneously in this Court and in the Mexico City arbitration risks inconsistent results on overlapping questions of law and fact. Under the Federal Arbitration Act and Texas law, the presence of such risks requires a stay of this action pending the outcome of the Mexico City arbitration.

The Federal Arbitration Act (“FAA”) governs the arbitration provisions in the two contracts pertinent to this action. *See Allied-Bruce Terminix Companies, Inc. v. Dobson*, 513 U.S. 265, 277 (1995) (holding that the FAA “applies where there is ‘a contract evidencing a transaction involving commerce’”); 9 U.S.C. §§ 1, 2 (defining “commerce” as “commerce among the several States or with foreign nations”). Texas law interpreting the FAA mandates that this Court stay this action pending the issuance of a final award in the Mexico City arbitration. The Texas Supreme Court announced such a rule in *Merrill Lynch Trust Co. FSB*, 235 S.W.3d 185 (Tex. 2007).

The State Court Stay

On March 25, 2019, defendant Pemex Procurement filed an agreed motion to stay this case in the 61st District Court of Harris County. On March 27, 2019, Judge Phillips signed the order abating this case until the close of arbitration (attached).

Plaintiffs continued their efforts to serve the remaining defendants. On June 18, 2019, the remaining defendants were served. Defendant Petroleos Mexicanos (“Pemex”) then removed this case pursuant to the Foreign Sovereign Immunities Act.

Pursuant to 28 U.S.C. § 1450, the state court order abating this action remains in effect. However, on July 19, 2019, this Court ordered an initial pretrial and scheduling conference before Magistrate Judge Bray on October 16, 2019. Defendant Pemex Procurement requests that this Court continue the stay already in effect.

Conclusion

For the reasons set forth above, Pemex Procurement respectfully requests that this Court continue the stay of this action pending completion of the Mexico City arbitration. Plaintiffs agree to the stay sought by this motion.

Date: August 28, 2019

Respectfully submitted,

SUSMAN GODFREY L.L.P.

/s/ Randall W. Wilson

Randall W. Wilson
State Bar No. 21709600
Olympia F. Camiña
State Bar No. 03681500
Daniel Wilson
State Bar No. 24070859
1000 Louisiana, Suite 5100
Houston, Texas 77002
Phone: 713-651-9366
Fax: 713-654-6666
rwilson@susmangodfrey.com
ocamina@susmangodfrey.com
dwilson@susmangodfrey.com

*Attorneys for Defendant
Pemex Procurement International, Inc.*

Certificate of Conference

Plaintiffs agree to the stay sought by this motion.

/s/ Randall W. Wilson

Randall W. Wilson

Certificate of Service

I hereby certify that a copy of the above and foregoing was served on all known counsel of record through the Court's Case Management/Electronic Case Files (CM/ECF) System on August 28, 2019.

/s/ Randall W. Wilson

Randall W. Wilson